## REMARKS

Claims 1-14 were previously pending in the present application. Claims 4-7 are withdrawn from consideration in light of the limitations being essentially incorporated into claim 1 as discussed subsequently. Upon Examiner's acceptance of the proposed amendments and allowance of the claims 1-3 and 8-14 as amended, claims 4-7 will be cancelled.

Applicants have carefully studied the outstanding Office Action. The present Response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested.

### Remarks regarding the Claim Amendments

Applicants are well-aware of the general policy against permitting claim amendments in response to a final office action. MPEP § 714.12 provides that "Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution." However, § 714.12 further provides that "[t]his does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered." In the present case, the Applicants believe that the amendments place all of the non-withdrawn claims in condition for allowance. If the Examiner has any reservations about the proposed amendments, the Examiner is urged to contact David W. Carstens at 972.367.2001 with any additional changes or suggestions.

All amendments are fully supported in the specification. A supplemental response will be submitted if the Examiner permits the amendments to be entered and requests the cancellation of the withdrawn claims.

### Claim Rejections under 35 U.S.C § 112

Claim 1 has been amended to resolve any and all issues raised by the Examiner. Specifically, the phrase "said braking surface" has been removed from the claim. Also, "said fluid" in the last line of claim 1 has also been removed by the amendment.

In the event the Examiner refuses to accept the previously discussed claim amendments,

the Examiner is urged, and hereby authorized, to make, for purposes of addressing the § 112 rejection, the following Examiner's amendment to claim 1:

"wherein, a volume of lubricating fluid is sealed within said ~~sealed~~ cavity and at least partially covering ~~said~~ one or more braking surfaces located within said cavity, said lubricating fluid separate from cooling fluid."

The reasons for using "lubricating," as described previously, is to eliminate any confusion regarding the two separate fluids within the housing.

**Claim Rejections under 35 U.S.C § 102**

Claims 1-8 and 11-14 have been rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by DE-1160319 (DE'319)

**Claims 1-3 and 5-7**

The Examiner specifically states:

> Re: claims 1-3 and 5-7. DE'319 shows in the figure a fluid cooled brake housing 10 including at least a casing defining a sealed cavity (sealed via element 32) for housing one or more friction pads 15, the casing having one or more walls, at least one of said walls provided with an internal fluid flow path, a fluid inlet 24 in fluid communication with the fluid flow path, and a fluid outlet 29 in fluid communication with the fluid flow path whereby when a fluid supply is coupled with the fluid inlet, fluid flows through at least one of the one or more walls via the fluid inlet, fluid flow path and fluid outlet thereby cooling the housing, wherein a volume of luid or air is sealed within the cavity and at least partially covering the braking surface as shown the fluid separate from cooling fluid.

The Examiner's rejection is addressed by the amendments presented with respect to claim 1. Claim 1, as amended, limits the present invention to "a fluid flow path that is internal to the circumferential wall." DE'319 discloses a fluid path located in the axial, not circumferential walls of the braking housing. In developing the present invention, the Applicants discovered that the cooling for wet disc brake systems is ideally located in the circumferential walls because the lubricating fluid tends to be flung on the inner surface of the circumferential wall as a result of the rotating brake disc. The cooling fluid dissipates the heat built up in the lubricating fluid rapidly when the cooling fluid is located in the circumferential walls. This is clearly lacking in the prior art cited by the Examiner.

If the Examiner elects not to permit the amended claims, the Applicants reiterate that DE'319 does not disclose "wherein, a volume of lubricating fluid is sealed within said ~~sealed~~

cavity and at least partially covering ~~said~~ one or more braking surfaces located within said cavity, said lubricating fluid separate from cooling fluid." (Incorporating the suggested Examiner's amendments) The Applicants submit that DE'319 does not disclose "wherein a volume of fluid or air is sealed within the cavity." First, a volume of air is not fluid (such as oil) as "fluid" is described within the specification within paragraph [0026]. Assuming for the moment that DE'319 that the volume of air disclosed is considered a volume of fluid, the volume of fluid (air) is not sealed within the cavity. In fact, the collar (element 32) is provided to seal the brake against external oil and dust. There is not a suggestion that air could not travel past the collar, and furthermore, the collar is designed to keep contaminants out not necessarily keep fluid in. There is no teaching in DE'319 that the collar seals the brake internally.

**Claims 4, 8 and 11-14**

As discussed previously, if the Examiner accepts the proposed amendments, this rejection is moot in light of claim 1 being in condition for allowance. However, in the event that Examiner chooses not to accept the amendments, DE'319, element 32, does not disclose a sealing means for sealing the cavity for the same reasons described above. Therefore the cavity in DE'319 cannot be considered sealed as described within the present Application. It is respectfully urged that all of the foregoing rejections be withdrawn.

**Claim Rejections under 35 U.S.C § 103**

As discussed previously, if the Examiner accepts the amendments proposed, especially the limitation of the internal fluid flow path being located in the circumferential wall, both DE'319 and Pogorzelski et al, U.S. Patent 5,445,242 fail to teach all of the elements of claim 8, and therefore, the prior art fails to teach all of the limitations of claims 9 and 10.

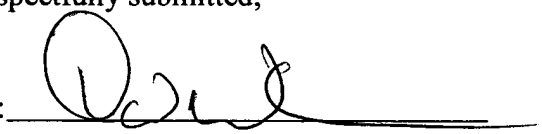
Claims 9 and 10 should be in condition for allowance over the rejection cited by the Examiner.

## CONCLUSION

Applicants believe the claims are in condition for allowance. It is respectfully urged that the subject application is patentable over references cited by Examiner. Applicants request reconsideration of the rejections in view of the foregoing remarks. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact David W. Carstens at 972.367.2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

Respectfully submitted,

By: 

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Date: March 20, 2006

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